

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF HUMAN SERVICES

In Re: The Revocation of
the License of

Shelly Armstrong
2101 Margaret
St. Paul, MN 55119

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

to provide family day care under Minnesota
Rules, parts 9502.0300 to 9502.0445

The Minnesota Department of Human Services (the Department) initiated this contested case proceeding by issuing a Notice of and Order for Hearing on September 15, 1999. The notice scheduled a hearing in this matter for Thursday, November 18, 1999, at the Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota.

Stephen McLaughlin, Assistant Ramsey County Attorney, 50 West Kellogg Boulevard, St. Paul, Minnesota 55102, is representing the Minnesota Department of Human Services and the Ramsey County Human Services Department (the County). Shelly Armstrong, 2101 Margaret, St. Paul, Minnesota 55119, was not represented by an attorney but rather is appearing in this matter on her own behalf.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Human Services will make the final decision after reviewing the hearing record. The Commissioner may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. Under Minnesota Law,^{[1](#)} the Commissioner may not make his final decision until after the parties have had access to this Report for at least ten days. During that time, the Commissioner must give each party adversely affected by this Report an opportunity to file objections to the report and to present argument to him. Parties should contact the office of Michael O'Keefe, Commissioner, Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155, to find out how to file objections or present argument.

STATEMENT OF THE ISSUE

Whether Ms. Armstrong's appeal should be dismissed with prejudice.

Based upon the record in this matter, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On September 15, 1999, the Department served the Notice of and Order for Hearing that began this proceeding by sending it via U. S. Mail to Ms. Armstrong at her current address, namely: 2101 Margaret, St. Paul, Minnesota 55119.

2. Ms. Armstrong did not file a Notice of Appearance in this proceeding. Rather, by a letter addressed to counsel for the Department and the County, Ms. Armstrong indicated that she no longer wished to pursue her appeal of the revocation of her family child care license and therefore asked that the hearing be cancelled.^[2]

3. Ms. Armstrong has therefore voluntarily agreed to dismissal of this contested case proceeding.

4. The Administrative Law Judge adopts as Findings any Conclusions which are more appropriately described as Findings.

Based upon the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. Minnesota law^[3] gives the Administrative Law Judge and the Commissioner of the Department of Human Services authority to conduct this proceeding and to make findings, conclusions, and orders.

2. The Department and the County have complied with all the law's substantive and procedural requirements.

3. The Department and the County gave Ms. Armstrong proper and timely notice of the hearing in this matter.

4. Because of Ms. Armstrong's agreement to dismiss her appeal, the Commissioner may dismiss this contested case proceeding with prejudice.^[4]

5. The Administrative Law Judge adopts as Conclusions any Findings which are more appropriately described as Conclusions.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge recommends that the Commissioner DISMISS this contested case proceeding, with prejudice.

Dated this 3rd day of February 2000.

s/ Bruce H. Johnson

BRUCE H. JOHNSON
Administrative Law Judge

NOTICE

Under Minnesota law,^[5] the Commissioner must serve his final decision upon each party and the Administrative Law Judge by first-class mail.

^[1] Minnesota Statutes, Section 14.61. (Unless otherwise specified, all references to Minnesota Statutes are to the 1998 edition.)

^[2] Exhibit A to Motion by Defendant to Dismiss filed on January 20, 2000.

^[3] Minn. Stat. §§ 245A.01 to 245A.16, and 14.50.

^[4] See Minn. R. Civ. P. 41(b).

^[5] Minn. Stat. § 14.62, subd. 1.